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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,615	06/26/2003	Audra S. Wright	19,644	4914
23556	7590	07/23/2004	EXAMINER	
KIMBERLY-CLARK WORLDWIDE, INC.			SHAH, KAMINI S	
401 NORTH LAKE STREET			ART UNIT	
NEENAH, WI 54956			PAPER NUMBER	
			2863	

DATE MAILED: 07/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/606,615	Applicant(s) WRIGHT ET AL. 	
	Examiner Kamini S Shah	Art Unit 2863	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/20/03 (IDS).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8-21 and 24 is/are rejected.
- 7) ☐ Claim(s) 6, 7, 22 and 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Double Patenting***

1. Claims 1,2,4,6-8, 11, 18, 20, 22-24 of this application conflict with claims various combination of claims 1-35 of Application No. 10/608,164. 37 CFR 1.78(b) provides that when two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. Applicant is required to either cancel the conflicting claims from all but one application or maintain a clear line of demarcation between the applications. See MPEP § 822.

2. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

3. Claims 1, 2, 4,6-8, 11,18, 19, 20, 21-24 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1, 2, 3, 4, 5, 8, 20, 21, 22, 23, 33, 34, and 35 of copending Application No. 10/608,164. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

4. Claims 1, 2, 4,6-8, 11,18, 19, 20, 21-24 are directed to an invention not patentably distinct from claims 1, 2, 3, 4, 5, 8, 20, 21, 22, 23, 33, 34, and 35 of

commonly assigned application 10/608,164. Specifically, claimed subject matter at present application is not patentably distinct since both application measures the effort and/or relative difficulty associated in donning a glove including apparatus for mounting glove and a device for measuring effort associated with donning the glove in way that mounting a glove for it to be open and donnable. Furthermore, the measuring device comprising a load cell for exerting force, a linear variable differential transducer affixed to glove mount for measuring glove stretch, a light curtain for measuring glove displacement/stretch.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-5, 8-21, 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yakopson et al (6,578,433) in view of Rix (6,419,131).

7. Regarding claims 1 and 11, Yakopson et al teaches an apparatus (15) for measuring the effort associated with donning comprising: a mount (11, 17) adapted to hold an article in an open donnable position (fig. 1)', and a device for measuring the effort associated with donning the glove. Yakopson et al fails to teach that the donning article is a glove. However, Rix teaches a glove (34) used for a donning apparatus. It would have been obvious to one of ordinary skill in the art at the time that the invention

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was made to have used the glove of Rix in the donning apparatus of Yakopson et al for the purpose of testing the forces experienced by a wearer when donning a tubular article (abstract, Yakopson et al).

Regarding claims 2, 18 Yakopson et al teaches the article mount in predetermined orientation (figs. 1 and 2).

Regarding claims 3, 19 Yakopson et al does not teach the device as claimed. However, Rix teaches the device as in figure 1 and col. 1, lines 58-68, and element 22 and 24 in figure 7. It would have been obvious to one of the ordinary skill in the art at the time of invention was made to have used the glove mount device of Rix in the apparatus of Yakopson et al for the purpose of providing an apparatus whereby the glove is positioned so that the hand can easily inserted into device.

Regarding claims 4, 20 Yakopson et al teaches the device collects data on the force acting upon the glove mount while the glove is being donned (fig. 1).

Regarding claim 5, 8-10, and 21, 24 Yakopson discloses load sensor for measuring the tension within the tubular article and a tension measuring and recording device as in figure 1, and figure 3.

Regarding claims 12-17, claimed features such as washing and draying hand for predetermined amount of time, is not particularly disclosed in Yakopson et al, however, it is well known and obvious to one of the ordinary skill in the art to performance such action for sanitary reason.

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Allowable Subject Matter


8. Claims 6,7, 22 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The cited prior art does not disclose linear variable differential transducer and a light curtain for measuring the stretching undergone by glove.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kamini S Shah whose telephone number is 571-272-2279. The examiner can normally be reached on IFP.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on 571-272-2269. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Kamini S Shah
Primary Examiner
Art Unit 2863

KSS